

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JAMES SONNY ALANIZ,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR WRIT OF CERTIORARI
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Respectfully submitted,

Steve Hershberger, Attorney at Law
Texas State Bar # 09543950
600 No. Marienfeld St., Ste 1035
432-570-4014

Attorney for Petitioner

QUESTION PRESENTED FOR REVIEW

Whether the Court of Appeals holding that a sentencing court is not required to use the incremental steps in Section 4A1.3(a)(4)(B) in an upward departure sentence denied the Petitioner's constitutional right to substantive due process under the Fifth Amendment by upwardly departing excessively in violation of Gall v. United States, 552 U.S. 38 (2007).

TABLE OF CONTENTS

	<u>Page</u>
Question Presented for Review	1
Table of Contents	2
Table of Authorities	3
Opinion Below	5
Jurisdiction	6
Constitutional and Statutory Provisions Involved	6
Statement of the Case	6
Reason for Granting the Writ	7
Conclusion	10
Prayer for Relief	10

TABLE OF AUTHORITIES

<u>CASES</u>	<u>Page</u>
UNITED STATES SUPREME COURT	
<u>Dennis v. United States</u> , 347 U.S. 494 (1951).....	10
<u>Gall v. United States</u> , 552 U.S. 38 (2007).....	7
<u>Jordan v. Massachusetts</u> , 225 U.S. 167 (1912).....	7
<u>Kimbrough v. United States</u> , 552 U.S. 85 (2007).....	8
<u>Perrin v. United States</u> , 444 U.S. 37 (1979).....	10
<u>Rita v. United States</u> , 551 U.S. 338 (2007).....	8
<u>Smith v. Phillips</u> , 455 U.S. 209 (1982).....	7
<u>Staples v. United States</u> , 511 U.S. 600 (1994).....	9
<u>Tanner v. United States</u> , 483 U.S. 107 (1987).....	7
<u>Williams v. United States</u> , 503 U.S. 193 (1992).....	9
CONSTITUTION	
U.S. Const., Amend V.....	6
STATUTES	
<u>Federal</u>	
18 U.S.C. Sec. 3553(a).....	8
18 U.S.S.G. Sec. 4A1.3(a)(2).....	8-9
18 U.S.S.G. Sec. 4A1.3(a)(4)(A).....	9
18 U.S.S.G. Sec. 4A1.3(a)(4)(B).....	9

28 U.S.C. sec. 1254(a).....	6
-----------------------------	---

IN THE SUPREME COURT OF THE UNITED STATES

JAMES SONNY ALANIZ,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

TO THE HONORABLE JUSTICES OF THE UNITED STATES SUPREME COURT:

The Petitioner, JAMES SONNY ALANIZ, Appellant in the United States Court of Appeals for the Fifth Circuit in Case No. 22-50418 and the Defendant in Case No. MO-21-CR-359, submits this Petition for Writ of Certiorari and respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on February 24, 2023.

OPINION BELOW

On February 24, 2023, the United States Court of Appeals for the Fifth Circuit entered its Opinion affirming the sentence returned against Petitioner. A copy of the Opinion is attached as Appendix A.

The District Court's Criminal Judgment is attached as Appendix B.

JURISDICTION

Jurisdiction of this Court is invoked under Title 28, United States Code sec. 1254(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states, in pertinent part to the case *sub judice*:

No person...shall be deprived of life, liberty, or property, without due process of law...

STATEMENT OF THE CASE

The Government, on December 15, 2021, obtained a single-count indictment against JAMES SONNY ALANIZ alleging he had from October 01, 2021, until December 2, 2021, Conspiracy to Possess with Intent to Distribute 50 grams or more of Actual Methamphetamine.

On or about January 14, 2022, Petitioner entered a plea of “guilty” to the single count Indictment.

At the Petitioner’s sentencing hearing on May 10, 2022, the United States District Court, Western District of Texas, Midland Division, found Petitioner’s offense level under the United States Sentencing Guidelines to be at “27” and a criminal history category of “VI” (ROA.76, 88). The Guidelines sentencing range, then, was 130 to 162 months of incarceration.

The District Court, however, upwardly departed based on an understated criminal history score and sentenced Petitioner to 200 months incarceration and five years of supervised release (ROA.83)

On or about May 23, 2022, Petitioner filed a Notice of Appeal (ROA.46), contesting the upward departure.

On or about February 24, 2023, the United States Court of Appeals for the Fifth Circuit

affirmed the District Court.

REASON FOR GRANTING THE WRIT

The District Court erred, as a matter of law, by upwardly departing from the offense level against Petitioner. The District Court failed to use the incremental step paradigm in Section 4A1.3(a)(4)(B) of the United States Sentencing Guidelines. Therefore, the sentencing court's upward departure and the affirmance of the Court of Appeals was unreasonable to a degree that it violates Petitioner's right to substantive due process.

In general, litigants are entitled to a fair adjudication based solely on the evidence adduced at a trial or sentencing hearing. Jordan v. Massachusetts, 225 U.S. 167, 176 (1912); Smith v. Phillips, 455 U.S. 209, 217 (1982). Further, the United States Supreme Court has recognized that due process implies a tribunal both impartial and mentally competent to afford a hearing with a factfinder capable and willing to decide the case solely on the evidence before it. Tanner v. United States, 483 U.S. 107, 117 (1987).

The Government in this case obtained a one-count indictment against Petitioner, alleging that he conspired to possess methamphetamine with the intent to distribute. Petitioner timely pleaded guilty. The District Court, however, sentenced Petitioner 38-72 months above the guideline by upwardly departing above the guideline base offense level.

A district court's sentencing is reviewed by the plainly unreasonable standard. Gall v. United States, 552 U.S. 38, 51 (2007). Under the plainly unreasonable standard, an appellate court evaluates whether the District Court procedurally erred before the appellate court considers the substantive reasonableness of the sentence imposed under an abuse of discretion standard. Id. When analyzing the substantive reasonableness, the appellate court considers the "totality of

the circumstances”, including the extent of any variance from the Guidelines range, while affording deference to the district court’s choice of sentence and keeping in mind that it may not vacate the sentence imposed simply because it would have chosen a different one. If the challenged sentence deviates from the guideline range, the appellate court must decide whether it unreasonably fails to reflect the statutory sentencing factors. Kimbrough v. United States, 552 U.S. 85 (2007); 18 U.S.C. Sec. 3553(a). A non-guideline sentence unreasonably fails to reflect the statutory sentencing factors where it (1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors. Rita v. United States, 551 U.S. 338 (2007).

The District Court premised the upward departure on two factors. First, the District Court found the criminal history was understated. The applicable sentencing guideline for departures based on inadequacy criminal history is section 4A1.3(a)(1). 18 U.S.S.G. Sec. 4A1.3. That section reads that if reliable information indicates that the defendant’s criminal history category substantially under-represents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes, an upward departure may be warranted.

Section 4A1.3(a)(2) provides that the information described in subsection (a)(1) may include information concerning the following:

- (A) Prior sentence(s) not used in computing the criminal history category (e.g. sentences for foreign and tribal convictions).
- (B) Prior sentence(s) of substantially more than one year imposed as a result of independent crimes committed on different occasions.
- (C) Prior similar misconduct established by a civil adjudication or by a failure to comply with an administrative order.
- (D) Whether the defendant was pending trial or sentencing on another charge at the time of the instant offense.

(E) Prior similar adult criminal conduct not resulting in a criminal conviction.

18 U.S.S.G. Sec. 4A1.3(a)(2).

Section. 4A1.3(a)(4) provides that except as provided subdivision (B), the court shall determine the extent of a departure under the subsection by, using as a reference, the criminal history category applicable to defendants whose criminal history or likelihood to recidivate most closely resembles that of the defendants. 18 U.S.S.G. Sec. 4A1.3(a)(4)(A) and Section 4A1.3(a)(4)(B) provide in part that after the sentencing court determines an upward departure is warranted, the sentencing court should structure the departure by moving incrementally down the sentencing table to the next higher offense level in category VI until it finds that a guideline range appropriate to the case. 18 U.S.S.G. Sec. 4A1.3(a)(4)(B). Thus, section 4A1.3 contemplates a paradigm of considering an incremental approach in a category VI sentence accompanied by a large amount of criminal history points. Here, the District Court did not address whether a level 28 sentence or level 29 sentence would be appropriate.

The District Court acted unreasonably by rendering a level 30 sentence and thus negated Petitioner's acceptance of responsibility points. Williams v. United States, 503 U.S. 193(1992).

Moreover, the sentencing court's finding of future criminality is misplaced. Petitioner appeared at the sentencing in a wheelchair and advised the sentencing court of a recent stroke and kidney problems (ROA.77).

The physical capacity of Petitioner and his ability to recidivate under the facts of this case violates substantive due process. Accord Staples v. United States, 511 U.S. 600, 615 (1994). This was compounded by the sentencing court's not expressly employing the step approach as set out in Section. 4A1.3(a)(4)(B). The Court of Appeals wrongfully excuses the sentencing

court by stating the district court was not required to consider each step and provide reasons for rejecting each step in departing upward. Petitioner has a justified expectation that the sentencing court will follow the statutory framework. Dennis v. United States, 347 U.S. 494 (1951). As such, the sentencing court and the court of appeals leave Petitioner without a basis to counter a downward departure. See Perrin v. United States, 444 U.S. 37, 42 (1979).

Petitioner requests the District Court sentence be vacated on the ground that the imposition of the four-level upward adjustment to Petitioner's base offense level in sentencing violates substantive due process.

CONCLUSION

For the foregoing reasons, Petitioner respectfully submits that the Petition for Writ of Certiorari should be granted and prays that the Criminal Judgment be reversed, and the case be remanded to the United States District Court for the Western District of Texas for resentencing premised on a lower base offense level. Petitioner further requests such other relief to which he is justly entitled to receive either in law or through equity.

PRAYER FOR RELIEF

Petitioner, JAMES SONNY ALANIZ, requests that the Petition for Writ of Certiorari be granted for the reasons stated and that the conviction entered against him be vacated and this case remanded for re-sentencing, and such other relief to which Petitioner would be entitled to receive in law or in equity.

Respectfully submitted,

Steve Hershberger, Attorney at Law
600 No. Marienfeld St., Ste. 1035
Midland, TX 79701
432-570-4014

By: Steve Hershberger
Steve Hershberger
Texas State Bar # 09543950

Attorney for Petitioner

APPENDIX A

(Opinion of the United States Court of Appeals for the Fifth Circuit)

United States Court of Appeals for the Fifth Circuit

No. 22-50418
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 24, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAMES SONNY ALANIZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:21-CR-359-1

Before JONES, HAYNES, and OLDHAM, *Circuit Judges.*

JUDGMENT

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.



Certified as a true copy and issued
as the mandate on Mar 20, 2023

Attest:

Lyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals for the Fifth Circuit

No. 22-50418
Summary Calendar

UNITED STATES OF AMERICA,

United States Court of Appeals
Fifth Circuit

FILED
February 24, 2023

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

versus

JAMES SONNY ALANIZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:21-CR-359-1

Before JONES, HAYNES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

James Sonny Alaniz pleaded guilty to one count of conspiracy to possess 50 grams or more of methamphetamine actual with intent to distribute. While his advisory guidelines range was 130 to 162 months of imprisonment, the district court decided to impose an upward departure

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 22-50418

pursuant to U.S.S.G. § 4A1.3(a)(1) and sentenced Alaniz to 200 months of imprisonment, followed by five years of supervised release. On appeal, Alaniz challenges the procedural and substantive reasonableness of his sentence.

Section 4A1.3 provides for an upward departure if the defendant's "criminal history category substantially under-represents the seriousness of the defendant's criminal history or the likelihood that the defendant will commit other crimes." § 4A1.3(a)(1). When a district court determines that a departure from Category VI is warranted, it should move "incrementally down the sentencing table to the next higher offense level in Criminal History Category VI" to reach an appropriate guidelines range. § 4A1.3(a)(4)(B). In this case, although the district court did not expressly state that it considered each step or provide reasons for rejecting each step in departing upward, it was not required to do so, and its reasoning implicitly established the rationale for rejecting the intervening levels. *See United States v. Zuniga-Peralta*, 442 F.3d 345, 348 n.2 (5th Cir. 2006). Therefore, Alaniz has not demonstrated an error, plain or otherwise, as to the procedural soundness of his sentence. *See id.* at 347; *see also Puckett v. United States*, 556 U.S. 129, 135 (2009); *United States v. Neal*, 578 F.3d 270, 272-73 (5th Cir. 2009).

As to substantive reasonableness, the district court properly considered the 18 U.S.C. § 3553(a) factors and the facts of the case in determining that an upward departure was warranted. *See Zuniga-Peralta*, 442 F.3d at 347. The district court's reasons addressed Alaniz's history and characteristics and the need to deter Alaniz from future criminal conduct. *See* § 3553(a)(1)-(2); *Zuniga-Peralta*, 442 F.3d at 347. Alaniz contends that the district court failed to consider his serious medical conditions and the unlikelihood of his recidivism, but nothing suggests that the district court failed to consider a factor that should have received significant weight, gave significant weight to an improper factor, or made a clear error of judgment in

No. 22-50418

balancing the sentencing factors. *See United States v. Fuentes*, 775 F.3d 213, 221 (5th Cir. 2014). We therefore defer to the district court's determination that the § 3553(a) factors, on the whole, warrant the departure and justify the extent of the upward departure imposed. *See id.*

Given the foregoing, the judgment of the district court is
AFFIRMED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

March 20, 2023

Mr. Philip Devlin
Western District of Texas, Midland
United States District Court
200 E. Wall Street
Room 222
Midland, TX 79701-0000

No. 22-50418 USA v. Alaniz
USDC No. 7:21-CR-359-1

Dear Mr. Devlin,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk

Roeshawn Johnson

By:

Roeshawn Johnson, Deputy Clerk
504-310-7998

cc: Ms. Elizabeth Berenguer
Mr. Joseph H. Gay Jr.
Mr. James Steven Hershberger

APPENDIX B

(Criminal Judgment, United States District Court for the Western of Texas, Midland Division)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA

v.

Case Number: 7:21-CR-00359(1) DC
USM Number: 78370-509

JAMES SONNY ALANIZ

Alias(es):

AKA Sonny J Alaniz; AKA Sonny Alaniz; AKA Saonny
James Alaniz; AKA James Alaniz; AKA Jim Alaniz;
Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, James Sonny Alaniz, was represented by Steve Hershberger.

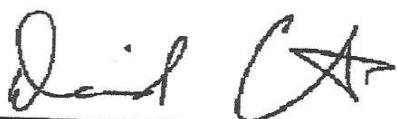
The defendant pled guilty to Count(s) 1, of the Indictment on January 14, 2022. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count(s)</u>
21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(A)	Conspiracy to Possess with Intent to Distribute 50 Grams or More of Actual Methamphetamine	December 1, 2021	1

As pronounced on May 10, 2022, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this 16th day of May, 2022.



David Counts
United States District Judge

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of Two Hundred (200) months. This term to run consecutive to any sentence imposed in Case No. 22-0071-CCL pending in County Court of Ector County, Texas, Odessa, TX, with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).

The Court makes the following recommendations to the Bureau of Prisons:

That the defendant be incarcerated in a federal facility to accommodate the defendant's medical needs.

The defendant shall remain in custody pending service of sentence.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of the Judgment.

United States Marshal

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Five (5) years**.

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court and shall comply with the following additional conditions:

The defendant shall submit his or her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: JAMES SONNY ALANIZ
 CASE NUMBER: 7:21-CR-00359(1) DC

CONDITIONS OF SUPERVISED RELEASE

(As Amended November 28, 2016)

It is ORDERED that the Conditions of Probation and Supervised Release applicable to each defendant committed to probation or supervised release in any division of the Western District of Texas, are adopted as follows:

Mandatory Conditions:

- [1] The defendant shall not commit another federal, state, or local crime during the term of supervision.
- [2] The defendant shall not unlawfully possess a controlled substance.
- [3] The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- [4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- [5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- [6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- [7] If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- [8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- [9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- [1] The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- [2] After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- [3] The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- [4] The defendant shall answer truthfully the questions asked by the probation officer.

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

- [5] The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change
- [6] The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view.
- [7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- [8] The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- [9] If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- [10] The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- [11] The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- [12] If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- [13] The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- [14] If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- [15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- [16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- [17] If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

CRIMINAL MONETARY PENALTIES/ SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 200 E. Wall St. Room 222, Midland, TX 79701 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through pay.gov (link accessible on the landing page of the U.S. District Court's Website). Your mail-in or online payment must include your case number in the exact format of DTXW721CR000359-001 to ensure proper application to your criminal monetary penalty.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTAL:	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

Special Assessment

It is ordered that the defendant shall pay to the United States a special assessment of **\$100.00**.

Fine

The fine is waived because of the defendant's inability to pay.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA Assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA

v.

Case Number: 7:21-CR-00359(1) DC
USM Number: 78370-509

JAMES SONNY ALANIZ

Alias(es):

AKA Sonny J Alaniz,; AKA Sonny Alaniz,; AKA Saonny
James Alaniz,; AKA James Alaniz,; AKA Jim Alaniz,;
Defendant.

AMENDED***
JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, James Sonny Alaniz, was represented by Steve Hershberger.

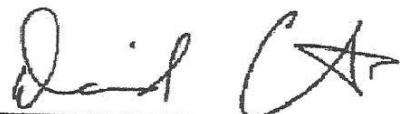
The defendant pled guilty to Count(s) 1, of the Indictment on January 14, 2022. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count(s)</u>
21 U.S.C. § 846,	Conspiracy to Possess with Intent to		
21 U.S.C. § 841(a)(1),	Distribute 50 Grams or More of Actual	December 2, 2021	1
21 U.S.C. § 841(b)(1)(A)	Methamphetamine		

As pronounced on May 10, 2022, the defendant is sentenced as provided in pages 2 through 6 of this Judgment.
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this 17th day of May, 2022.



David Counts
United States District Judge

***Amended to correct Offense Ended date

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of **Two Hundred (200) months. This term to run consecutive to any sentence imposed in Case No. 22-0071-CCL pending in County Court of Ector County, Texas, Odessa, TX**, with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).

The Court makes the following recommendations to the Bureau of Prisons:

That the defendant be incarcerated in a federal facility to accommodate the defendant's medical needs.

The defendant shall remain in custody pending service of sentence.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of the Judgment.

United States Marshal

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Five (5) years**.

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court and shall comply with the following additional conditions:

The defendant shall submit his or her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: JAMES SONNY ALANIZ
 CASE NUMBER: 7:21-CR-00359(1) DC

CONDITIONS OF SUPERVISED RELEASE
 (As Amended November 28, 2016)

It is ORDERED that the Conditions of Probation and Supervised Release applicable to each defendant committed to probation or supervised release in any division of the Western District of Texas, are adopted as follows:

Mandatory Conditions:

- [1] The defendant shall not commit another federal, state, or local crime during the term of supervision.
- [2] The defendant shall not unlawfully possess a controlled substance.
- [3] The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- [4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- [5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- [6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- [7] If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- [8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- [9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- [1] The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- [2] After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- [3] The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- [4] The defendant shall answer truthfully the questions asked by the probation officer.

DEFENDANT: JAMES SONNY ALANIZ
CASE NUMBER: 7:21-CR-00359(1) DC

- [5] The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change
- [6] The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view.
- [7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- [8] The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- [9] If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- [10] The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- [11] The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- [12] If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- [13] The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- [14] If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- [15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- [16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- [17] If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.

DEFENDANT: JAMES SONNY ALANIZ
 CASE NUMBER: 7:21-CR-00359(1) DC

CRIMINAL MONETARY PENALTIES/ SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 200 E. Wall St. Room 222, Midland, TX 79701 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through pay.gov (link accessible on the landing page of the U.S. District Court's Website). **Your mail-in or online payment must include your case number in the exact format of DTXW721CR000359-001 to ensure proper application to your criminal monetary penalty.**

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTAL:	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

Special Assessment

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00.

Fine

The fine is waived because of the defendant's inability to pay.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA Assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.